



U.S. Department  
of Transportation

**Pipeline and  
Hazardous Materials Safety  
Administration**

901 Locust Street, Suite 462  
Kansas City, MO 64106-2641

**NOTICE OF PROBABLE VIOLATION  
AND  
PROPOSED COMPLIANCE ORDER**

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

January 22, 2007

Mr. Pete Schwiering  
Vice President of Operations  
SEM Crude, L.P.  
11501 South I-44 Service Road  
Oklahoma City, Oklahoma 73173

CPF 3-2007-5001

Dear Mr. Schwiering:

On May 1-4 and 8-12, 2006, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected your pipeline facilities in Kansas and Oklahoma.

As a result of the inspection, it appears that you have committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The item inspected and the probable violation is:

1. **§195.583 What must I do to monitor atmospheric corrosion control?**  
(a) **You must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows:**

**If the pipeline is located:      Then the frequency of inspection is:**

<b>Onshore</b>	<b>At least once every 3 calendar years, but with intervals not exceeding 39 months</b>
<b>Offshore</b>	<b>At least once each calendar year, but with intervals not exceeding 15 months</b>

- (b) **During inspections you must give particular attention to pipe at soil-to-air interfaces, under thermal insulation, under disbonded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water.**
- (c) **If you find atmospheric corrosion during an inspection, you must provide protection against the corrosion as required by Sec. 195.581.**

Atmospheric corrosion inspections were not made since the pipeline was placed in service in 2002 on 28 mainline block valve settings exposed to the atmosphere. The following 28 valve settings had never had an atmospheric corrosion inspection at the time of this PHMSA inspection

- 1) End of Line at Blackwell Block Valve, MP -3 5
- 2) Ambrose Junction 6" Scraper Trap and Block Valves and 4" Scraper Trap and Block Valves, MP -0 5
- 3) Camel Back Block Valve North Side of Ninnescah River, MP 40 5
- 4) Wichita Station (Not a pump station) - 6" and 4" scraper traps and Block Valves, MP 55
- 5) Schulte Junction, scraper trap and Block Valve, MP 79
- 6) 23 below grade block valves located in pits surrounded by a galvanized steel "can" at mile posts 3, 3 3, 6, 10, 16, 20, 25, 26, 30, 35, 40, 45, 50, 51, 51 6, 65 5, 70, 75, 79, 81, 86, 91, and 91 3

#### Proposed Compliance Order

With respect to item 1, pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Sem Crude, L P. Please refer to the *Proposed Compliance Order* that is enclosed and made a part of this Notice.

#### Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance Proceedings*. Please refer to this document and note the response options. If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order.

In your correspondence on this matter, please refer to **CPF 3-2007-5001** and for each document you submit, please provide a copy in electronic format whenever possible

Sincerely,

A handwritten signature in cursive script, appearing to read "Ivan A. Huntoon".

Ivan A. Huntoon  
Director, Central Region  
Pipeline and Hazardous Materials Safety Administration

Enclosures      *Proposed Compliance Order*  
*Response Options for Pipeline Operators in Compliance Proceedings*

## PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Sem Crude, L P a Compliance Order incorporating the following remedial requirements to ensure the compliance of Sem Crude, L P with the pipeline safety regulations

- 1 In regard to Item Number 1 of the Notice pertaining to the atmospheric corrosion inspections on mainline block valves exposed to the atmosphere, Sem Crude must establish a written plan, including procedures and schedule, to inspect the valves and adjacent above ground piping for evidence of atmospheric corrosion per §195 583 or perform other remedial measures The inspections and/or other remedial measures must be completed within 60 days of receipt of the Final Order
- 2 The proposed plans for inspections or remedial measures, schedules, and procedures in Item 1 of the Compliance Order shall be submitted to the Director, Central Region, Pipeline and Hazardous Materials Safety Administration within 30 days following Sem Crude's receipt of the Final Order
- 3 When all appropriate actions have been completed in regard to the above items in this Compliance Order, submit a summary report and notice of completed actions to the Director, Central Region, Pipeline and Hazardous Materials Safety Administration, 901 Locust Street, Room 462, Kansas City, MO 64106 The summary report shall include, but is not limited to, the following records of the inspection results, inspection recommendations, any resulting repairs or alterations, and other findings and outcomes of the inspections or remedial measures
- 4 Sem Crude shall maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director, Central Region, Pipeline and Hazardous Materials Safety Administration Costs shall be reported in two categories 1) total cost associated with preparation/revision of plans, procedures, studies and analyses, and 2) total cost associated with replacement, additions and other changes to pipeline infrastructure

## **Response Options for Pipeline Operators in Compliance Proceedings**

The requirements of 49 C F R Part 190, Subpart B (§§ 190 201–190 237) govern response to Notices issued by a Regional Director, Pipeline and Hazardous Materials Safety Administration (PHMSA)

### **I Procedures for Responding to a NOTICE OF PROBABLE VIOLATION:**

Within 30 days of receipt of a Notice of Probable Violation, the respondent shall respond to the Regional Director who issued the Notice in the following way

#### **a When the Notice contains a proposed CIVIL PENALTY\* --**

- 1 Pay the proposed civil penalty and advise the Regional Director of the payment This authorizes PHMSA to make findings and to close the case with prejudice to the respondent Payment terms are outlined below,
- 2 Submit written explanations, information, or other materials in response to the allegations and/or seek elimination or mitigation of the proposed civil penalty Refer to 49 C F R § 190 225 for assessment considerations, which include the respondent's ability to pay and the effect on the respondent's ability to stay in business, upon which civil penalties are based, or
- 3 Request a hearing as described below to contest the allegations and/or proposed assessment of a civil penalty

#### **b When the Notice contains a proposed COMPLIANCE ORDER\* --**

- 1 Notify the Regional Director that you intend to take the steps in the proposed compliance order,
- 2 Submit written explanations, information, or other materials in answer to the allegations in the Notice and object to or seek clarification of the proposed compliance order items in whole or in part, or
- 3 Request a hearing as described below to contest the allegations and/or proposed compliance order items,

#### **c When the Notice contains a WARNING ITEM --**

No written response is required The respondent is warned that if it does not take appropriate action to correct these items, enforcement action will be taken if a subsequent inspection reveals a violation

\* Failure of the respondent to respond to the Notice within 30 days of receipt constitutes a waiver of the right to contest the allegations in the Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in the Notice without further notice to the respondent and to issue a Final Order

## **II Procedures for Responding to a NOTICE OF AMENDMENT\*--**

Within 30 days of receipt of a Notice of Amendment, the respondent shall respond to the Regional Director who issued the Notice in the following way

- a Notify the Regional Director of your plans to address the inadequacies identified in the Notice,
- b Submit written explanations, information, or other materials in answer to the allegations in the Notice and/or object to or seek clarification of the proposed amendment items in whole or in part, or
- c Request a hearing as described below to contest the allegations in the Notice

\* Failure of the respondent to respond to the Notice within 30 days of receipt constitutes a waiver of the right to contest the allegations in the Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in the Notice without further notice to the respondent and to issue a Final Order

## **III Procedure for Requesting a Hearing**

A request for a hearing must be in writing and accompanied by a statement of the issues which the respondent intends to raise at the hearing. The issues may relate to the allegations, new information, or to the proposed compliance order or proposed civil penalty amount. Refer to 49 C F R § 190.225 for assessment considerations upon which civil penalties are based. A respondent's failure to specify an issue may result in waiver of the right to raise that issue at the hearing. The respondent's request must also indicate whether or not respondent will be represented by counsel at the hearing. Failure to request a hearing in writing within 30 days of receipt of a Notice waives the right to a hearing. In addition, if the amount of the proposed civil penalty or the proposed corrective action is less than \$10,000, the hearing will be held by telephone, unless the respondent submits a written request for an in-person hearing. Complete hearing procedures can be found at 49 C F R § 190.211

## **IV Extensions of Time**

An extension of time to prepare an appropriate response to a Notice may be granted, at the agency's discretion, following submittal of a written request to the Regional Director. The request must indicate the amount of time needed and the reasons for the extension. The request must be submitted within 30 days of receipt of the Notice.

V **Freedom of Information Act**

Any material prepared by PHMSA, including the violation report, the Notice, and any order issued in this case, and any material provided to PHMSA by the respondent, may be considered public information and subject to disclosure under the Freedom of Information Act (FOIA). If the information you provide is security sensitive, privileged, confidential or may cause your company competitive disadvantages, please clearly identify the material and provide justification why the documents, or portions of a document, should not be released under FOIA. If we receive a request for your material, we will notify you if PHMSA, after reviewing the materials and your provided justification, determines that withholding the materials does not meet any exemption provided under the FOIA. You may appeal the agency's decision to release material under the FOIA at that time. Your appeal will stay the release of those materials until a final decision is made.

VI **Small Business Regulatory Enforcement Fairness Act Information**

The Small Business and Agricultural Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of the Pipeline and Hazardous Materials Safety Administration, call 1-888-REG-FAIR (1-888-734-3247) or go to [http://www.sba.gov/ombudsman/dsp\\_faq.html](http://www.sba.gov/ombudsman/dsp_faq.html)

## VII PAYMENT INSTRUCTIONS

### *Civil Penalty Payments of Less Than \$10,000*

Payment of a civil penalty of less than \$10,000 proposed or assessed, under Subpart B of Part 190 of the Pipeline Safety Regulations can be made by certified check, money order or wire transfer. Payment by certified check or money order (containing the CPF Number for this case) should be made payable to the "Department of Transportation" and should be sent to

Federal Aviation Administration  
Mike Monroney Aeronautical Center  
Financial Operations Division (AMZ-300) P O Box 25082  
Oklahoma City, OK 73125-4915

Wire transfer payments of less than \$10,000 may be made through the Federal Reserve Communications System (Fedwire) to the account of the U S Treasury. Detailed instructions are provided below. Questions concerning wire transfer should be directed to the Financial Operations Division at (405) 954-8893, or at the above address.

### *Civil Penalty Payments of \$10,000 or more*

Payment of a civil penalty of \$10,000 or more proposed or assessed under Subpart B of Part 190 of the Pipeline Safety Regulations must be made wire transfer (49 C F R § 89.21 (b)(3)), through the Federal Reserve Communications System (Fedwire) to the account of the U S Treasury. Detailed instructions are provided below. Questions concerning wire transfers should be directed to the Financial Operations Division at (405) 954-8893, or at the above address.

### INSTRUCTIONS FOR ELECTRONIC FUND TRANSFERS

(1) <u>RECEIVER ABA NO</u> 021030004	(2) <u>TYPE/SUB-TYPE</u> (Provided by sending bank)
(3) <u>SENDING BANK ABA NO</u> (Provided by sending bank)	(4) <u>SENDING BANK REF NO</u> (Provided by sending bank)
(5) <u>AMOUNT</u>	(6) <u>SENDING BANK NAME</u> (Provided by sending bank)
(7) <u>RECEIVER NAME</u> TREAS NYC	(8) <u>PRODUCT CODE</u> (Normally CTR, or as provided by sending bank)
(9) <u>BENEFICIAL (BNF) = AGENCY LOCATION CODE</u> BNF = /ALC-69-14-0001	(10) <u>REASONS FOR PAYMENT</u> Example PHMSA - CPF # / Ticket Number/Pipeline Assessment number



**INSTRUCTIONS:** You, as sender of the wire transfer, must provide the sending bank with the information for blocks (1), (5), (7), (9), and (10) The information provided in Blocks (1), (7), and (9) are constant and remain the same for all wire transfers to the Pipeline and Hazardous Materials Safety Administration, Department of Transportation

**Block #1** - RECEIVER ABA NO - "021030004" Ensure the sending bank enters this 9-digit identification number, it represents the routing symbol for the U S Treasury at the Federal Reserve Bank in New York

**Block #5** - AMOUNT - You as the sender provide the amount of the transfer Please be sure the transfer amount is punctuated with commas and a decimal point **EXAMPLE: \$10,000.00**

**Block #7** - RECEIVER NAME - "TREAS NYC" Ensure the sending bank enters this abbreviation It must be used for all wire transfers to the Treasury Department

**Block #9** - BENEFICIAL - AGENCY LOCATION CODE - "BNF=/ALC-69-14-0001" Ensure the sending bank enters this information This is the Agency Location Code for the Pipeline and Hazardous Materials Safety Administration, Department of Transportation

**Block #10** - REASON FOR PAYMENT - "AC-payment for PHMSA Case # / To ensure your wire transfer is credited properly, enter the case number/ticket number or Pipeline Assessment number, and country "

**NOTE:** A wire transfer must comply with the format and instructions or the Department cannot accept the wire transfer You as the sender can assist this process by notifying the Financial Operations Division (405) 954-8893 at the time you send the wire transfer

November 2006